



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 30, 1998

Mr. Tim Curry  
Criminal District Attorney  
Tarrant County  
Justice Center  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR98-0297

Dear Mr. Curry:

You ask this office to reconsider our ruling in Open Records Letter No. 97-2513 (1997). Your request for reconsideration was assigned ID# 112897.

The Tarrant County Criminal District Attorney's Office (the "district attorney") received a request for the "prosecuting attorney's files in 25 pending criminal cases." In your original request for a ruling from this office, you submitted for review a representative sample of documents responsive to the request. You asserted that the requested information is excepted from disclosure pursuant to sections 552.101, 552.103, and 552.108 of the Government Code. In Open Records Letter No. 97-2513 (1997), we assumed, based on the representative sample, that all of the requested records related to alleged child abuse cases. We ruled that section 261.201 of the Family Code made all such records confidential by law. You now inform this office that the requested records do not all relate to alleged child abuse cases. You ask us to rule on the applicability of sections 552.103 and 552.108 of the Government Code.

Section 552.108 of the Government Code excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state [and]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

Because you have informed us that the records at issue pertain to pending criminal litigation, and assuming that such is still the case, we conclude that you have met your burden of establishing that the release of the requested information at this time could interfere with law enforcement or prosecution. The district attorney therefore may withhold most of the requested information at this time pursuant to section 552.108(a)(1).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other exception to disclosure, the department must release these types of information in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976).<sup>1</sup>

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<sup>1</sup>As we conclude that you may withhold the information under section 552.108, we do not address your arguments under section 552.103.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Deputy Chief  
Open Records Division

LRD/rho

Ref.: ID# 112897

Enclosures: Submitted documents

cc: Mr. Mike Rivera Ortega  
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(w/o enclosures)